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DE RUEHBW #1144/01 2781417
ZNR UUUUU ZZH
R 051417Z OCT 09
FM AMEMBASSY BELGRADE
TO RUEHC/SECSTATE WASHDC 0273

UNCLAS BELGRADE 001144

SENSITIVE
SIPDIS
DEPT FOR EUR/OHI - JOHN BECKER AND EUR/SCE
AID FOR E&E/ECA

E.O. 12958: N/A

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SUBJECT: SERBIA: RESTITUTION LAW PROMISED BY YEAR END AMID GROWING
FRUSTRATION

REF: BELGRADE 996, AND OTHERS

SUMMARY

¶1. (SBU) The Government of Serbia has promised that it will adopt a long-awaited restitution law for nationalized property by the end of the year. In preparation, the Government hosted a conference, co-sponsored by the Council of Europe and European Commission, to review restitution laws and "lessons learned" in Croatia, Germany, Hungary, Latvia and Romania, as well as legal considerations from the perspective of the European Court of Human Rights. The European Commission delegation in Serbia, presenters from other European countries, and restitution claimants stressed the need to resolve this long festering issue, a prerequisite for EU membership. The GoS, which has failed to deliver on a promised restitution law in the past, needs to finally fulfill this obligation if it wishes to attract investment and move closer toward Europe. End Summary.

SERBIA'S LONG ROAD TO RESTITUTION

¶2. (SBU) Serbia is one of the last remaining former East-bloc countries without a restitution law. A restitution law is a prerequisite to EU membership, and uncertainty regarding property ownership rights has hampered foreign investment and economic growth. Previous promises to adopt a restitution law were not fulfilled and existing legislation that touches on this issue, such as the law on Planning and Construction, the law on Reporting and Recording of Property Seized, the law on Property Restitution to Churches and Religious Communities, have been criticized for not addressing directly the restitution issue and for a lack of transparency (reftel).

RESTITUTION CONFERENCE INCONCLUSIVE

¶3. (U) On September 23, Serbia's Finance Ministry, the Council of Europe, and European Commission co-hosted a round table at which State Secretary Slobodan Ilic stated that political consensus for a restitution law had been reached, and promised the conference would be the first step in a transparent and open process based on the experiences of other European countries. Ilic said the Ministry Working Group, together with Council of Europe experts, would develop a model by the end of October and submit a proposed law to the government by the end of the year. Ilic offered his resignation if the GoS failed to pass by the end of 2009 a "balanced solution" that created "efficiencies" for the State, allowed Serbia to reach its economic potential, and did not create "new injustices". Note: Ilic has talked of resigning over the last year for various reasons, and at one point may have actually submitted a resignation that was not accepted. End Note.

EU LOOKS FOR PROGRESS

¶3. (U) Adriano Martins, Deputy Chief of the European Commission in

Serbia, said that restitution and other property rights were an essential criterion for EU membership and expressed disappointment at Serbia's slow pace to resolve these issues. Martins said the EC had encouraged Serbia in 2004 to address restitution issues, but to date progress had been restricted to the Law on Registration of Nationalized Property in 2005 and Law on Restitution of Property to Churches and Communities in 2006. Martins said the continued privatization of nationalized property without a restitution law was problematic and encouraged the government to consider the mounting concerns of the former owners' associations and other interest groups on the current proposed solutions.

EUROPEAN EXPERIENCE FOR SERBIA

14. (U) Experts from Croatia, Germany, Hungary, Latvia and Romania presented summaries of their restitution laws and experiences. Some of these countries addressed restitution quite early in their post-communist eras, and others have tackled the issue more recently.

While the content of the laws and their historical circumstances differ, each presenter emphasized that addressing restitution as part of property rights reform, either together or prior to privatization, was an essential part of wider economic development in their countries. They stressed the need for transparency and procedural safeguards regardless of the solution ultimately adopted, as well as the need to establish adequate institutional infrastructure to implement the law. The Romanian representative cautioned of the dangers of altering the law midstream. The German expert noted the danger of creating new self-perpetuating government institutions, and

highlighted the German approach, which provided new responsibilities for those offices after several years.

15. (U) Nadia Cuk, Deputy Special Representative for the Council of Europe in Serbia, spoke of the importance of restitution and property rights in the Human Rights Chapter and the EU Court of Human Rights. Katarina Nedeljkovic from the European Court of Human Rights said the Court viewed restitution claims through the context of human rights violations, including disruption of the peaceful disposal of private property, denial of access to the courts, or unduly long court procedures.

UNIVERSALLY UNPOPULAR PROPOSALS

16. (SBU) Various restitution claimants' organizations expressed growing frustration at the Government's continued delays, both in a small demonstration outside the building by the Restitution Network and in a session set aside for public comments. These groups reiterated their long-standing demands for restitution in kind or with property of equal value and included Amcits Bogdan Veljkovic

(Restitution Network) and George Ilic (Serbian League), and the Association of Jewish Municipalities in Serbia. The claimants' groups openly criticized the government for dragging out the problem for years, and profiting by selling the nationalized property through privatization or grants of urban construction land through the recently approved Law on Spatial Planning and Construction leaving almost nothing for restitution in kind.

17. (SBU) The government's proposed solutions are also opposed by land developers. On September 30, Dejan Racic, CEO of Delta Real Estate, told us that implementing a law on restitution was imperative to Serbia's economic growth, but that his company was considering a constitutional challenge to such a law on grounds there are insufficient protections for those who acquired land rights through privatization.

COMMENT

18. (SBU) Serbia must resolve property restitution in order to join the EU, encourage private investment, clarify property rights, and strengthen the market economy. Compared with other East-European countries where restitution and privatization served as part of broader economic reform tools early in their post-communist journeys, Serbia's options are more limited due to its own haphazard approach

to economic reform. Serbia has already privatized a significant portion of socially owned property and with the passage of the new construction law restitution in kind is unlikely. The GoS has already calculated that the cost of litigating some cases would be less costly, and more politically palatable, than to return numerous properties in kind to claimants. Despite Serbia's renewed promises to finally resolve this issue and our and EU continued pressure, we are doubtful that Serbia will find the political will - let alone the necessary funds - to pass a restitution scheme by the end of 2009.

BRUSH